

INFORMATION LETTER

Not for
Publication

NATIONAL CANNERS ASSOCIATION

For Members
Only

No. 782

Washington, D. C.

April 6, 1940

COST OF PACKING PEAS

Division of Statistics Presents Average Figures Based on Reports from Cannerys

Much has been said and written regarding the plans for packing peas this year, and most emphasis has been placed on acreage, probable carryover, and pack. Each canner, however, is faced with the additional problem of budgeting his costs. Information on supplies of canned peas, which will be available for sale, is of vital importance as a measure of the competition that cannerys must face when selling their 1940 pack. The absolute price, or the gross price that a canner may be able to get for his peas under a given set of supply and demand conditions, indicates only roughly the success of his operations.

The difference between the gross price and the cost of packing peas is, after all, of vital importance to the canner. Many cannerys therefore follow a practice of budgeting their operations before the season begins, and in that connection calculate their probable costs of packing. These calculations are usually based on a record of experience, together with such information regarding this year's costs as is available at the time the calculations are made. Except for the price paid for raw produce and possibly prices of cans, cases, and labels, these calculated costs are based on the costs of former years.

Assuming that the canner is interested primarily in the difference between his costs of packing and the price at which he sells his product, it is reasonable to assume that he is also interested in methods of increasing that margin. The gross selling price is affected by a number of factors, most important of which is supply and demand. Each canner individually has very little control over the total available supply of canned peas or the demand for canned peas. He does have, within certain narrow limits, the opportunity to secure a somewhat higher than average price through sales effort. Many, however, are likely to lose sight of the fact that their margin may also be increased by greater

efficiency in operation, with a resultant lower cost of production.

It is not proposed in this article to point out the particular items of costs that may be reduced. As a matter of fact, if the possibility exists, the particular item that can be cut would not be the same for all cannerys. Many operators no doubt feel that, under the stimulus of low selling prices for a number of years, they have already lowered their costs to a minimum. The fact remains, however, that there is a wide variation in costs of packing peas. These variations may be due to geographic advantages and may be due to a variation in the efficiency of operation.

It is difficult for one to determine when he has reached the highest possible efficiency in production or when he

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REGULATIONS ON OLD-AGE TAXES

Analysis of Changes Made Necessary by Amendments to Social Security Act

Revised regulations controlling the application and collection of the Federal old-age benefit taxes (now called "Federal insurance contributions") levied under the Social Security Act have recently been issued by the Federal Bureau of Internal Revenue. The new regulations, which are designated "Regulations 106", supersede the old Regulations 91, are designed to give effect to the amendments to the Social Security Act adopted by Congress last summer, and apply to all employment after January 1, 1940.

For the most part the new Regulations 106 follow quite closely the provisions of the old Regulations. For this reason, no attempt will be here made to analyze them in full. There are, however, several provisions relating to the amendments to the Act which deserve comment.

Agricultural Labor

Of all the changes made by the new Regulations, perhaps the most important is that relating to the definition of "agricultural labor." Services that come within the definition of "agricultural labor" are exempt from the Federal insurance contribution taxes. Prior to the amendments of last summer, however, the Social Security Act did not contain any definition of the phrase "agricultural labor," and the only existing definition was that issued by the Bureau of Internal Revenue in its old Regulations 91. The Bureau definition, in a number of respects, caused hardship in the canning industry.

The amendments adopted by Congress last summer wrote into the Act a long and comprehensive definition of "agricultural labor" that broadens substantially the scope of this exemption from the taxes. This new definition is dealt with in section 402.208 of Regulations 106. The Regulations point out that services performed on a farm in

Hearings to be Held on Revision of "Area of Production" Definition

The Wage and Hour Division of the Department of Labor is now definitely planning to hold a series of hearings at an early date for consideration of revisions of the definition of "area of production". On Monday, April 8, an informal preliminary conference will be held at the office of the administrator to discuss plans for the hearings, with attention being given first to the packing and shipping of fresh citrus. The preliminary plans contemplate holding separate hearings for different branches of the processing industries, and this series may eventually cover the entire field.

connection with the cultivation of the soil and the raising or harvesting of agricultural commodities are exempt from the taxes, irrespective of whether the person for whom the services are performed is the owner or tenant of the farm or not.

This is the most important change made in the Regulations. Under the old definition, even though services were wholly agricultural in character, they were not exempt unless performed in the employ of the owner or tenant of the farm. Because of this requirement in the old definition, in a number of instances cannerys were required to pay taxes on the wages paid to harvesting crews, and similar workmen whom they furnished to do harvesting on the farms operated by growers under contract with them. Services of this character are clearly exempt from the tax under the new Regulations.

The Regulations also point out that services that are not strictly agricultural in nature may nevertheless be exempt if they are performed in the employ of the owner, tenant, or operator of a farm, and are performed primarily on the farm. Services of this character are those performed in connection with the operation, management, conservation, improvement, or maintenance of farm lands and farm equipment, and would include mechanics, farm supervisors, bookkeepers, and other clerical workers. This provision of the Regulations will be of interest to any cannerys who own and operate farms.

The amended Act and Regulations specifically provide that services performed in connection with the raising or harvesting of mushrooms are exempt. Under the old definition, growers of mushrooms had difficulty establishing the exemption of their workers.

Finally, the new Regulations contain somewhat broader provisions concerning the application of the taxes to services performed in connection with the handling, packing, packaging, processing, and transportation of farm commodities. Activities of this kind were exempt under the old definition only if performed in the service of the owner or tenant of the farm, and only if performed as an incident to ordinary farming operations. Under the new Regulations, services performed in the handling, packing, packaging, processing, freezing, grading, storing, or transportation of fruits and vegetables (whether perishable or not), are exempt provided only that the services are performed as an incident to the preparation of these fruits and vegetables for market. There is no requirement that the services be performed in the employ of the owner or tenant of the farm, and for this reason services of this character performed for cooperative associations or organizations will now be exempt from the taxes. The Regulations specifically point out, however, that *commercial canning or commercial freezing* are not exempt from the taxes.

Seamen and Fishermen

Of particular interest to those members of the Association engaged in the packing of seafoods are the portions of the Regulations dealing with seamen and fishermen. For, under the amendments to the Act, the Federal insurance contributions now apply to the wages paid to seamen performing services "on and in connection with" American vessels, even though those services are performed outside of the territorial limits of the United States.

Section 402.203(c) of Regulations 106 deals with the services of seamen. It points out that an American vessel is one documented under the laws of the United States, and that services performed "on and in connection with" the vessel outside the United States are subject to tax if the contract of service was entered into in the United States, or if the vessel touches at a United States port during the voyage. While the Regulations do not specifically so state, it seems clear that the services of fishermen (unless they fall within the limited exemption discussed below) on fishing vessels are services performed "on and in connection with" the vessel and are subject to the tax.

Section 402.225 of the Regulations deals with the limited exemption afforded for fishermen. Under this section services performed in the catching or taking of fish or other aquatic life are exempt from the taxes, and this exemption includes services performed as an officer or member of the crew of a fishing vessel. But this exemption does not apply to the catching of *salmon* or *halibut* for commercial purposes, and it does not apply to any fishing activities if the services are performed on or in connection with a vessel of more than ten net tons. Because of these limitations the practical value of this exemption, at least in some branches of the seafood industry, is subject to some doubt.

To summarize: When a seafood cannery operates vessels that are documented under the laws of the United States, the seamen employed on the vessels will in most instances be subject to the tax unless the vessels are fishing vessels of ten net tons or less. Similarly, any fishermen working on or in connection with a fishing vessel will be taxed unless their services fall within the limited exemption for fishermen. It should also be observed that the value of the meals and lodging furnished to seamen or fishermen while they are performing services on or in connection with the ship generally will constitute a part of their wages upon which a tax must be paid (section 402.227(a) of Regulations 106).

Workers Who Perform Both Exempt And Non-Exempt Services

The amendments to the Act and the new Regulations make important changes in the application of the taxes to workers who, during a particular week, work both in exempt and non-exempt employment. This will be important, for example, to cannerys who operate farms and who have employees who work part of their time on the farm and part in and around the canning plant. Under the old Regulations, taxes were paid only on the portion of the wages paid to such employees that could be attributed to the non-exempt work performed by the employee. The new Regulations, however, provide for payment of the taxes on all of the wages earned by such employee or on none of his wages, depending upon whether the major portion of his work is exempt or not. The Regulations provide that if during a particular pay period, one-half or more of the employee's time is spent in non-exempt employment, then taxes must be paid upon the entire wages received by the employee during the pay period. On the other hand, if the greater portion of the employee's time is spent in exempt employment, no taxes whatsoever need be paid.

Taking an illustration, if a cannery operates a farm and pays wages on a weekly basis, and if one of his employees

during a particular week works 26 hours on the farm and 22 hours in the canning plant, no taxes need be paid on his wages for that week. The next week, however, the employee might work 25 hours in the plant and 23 hours on the farm, and in that event taxes would have to be paid on the entire wages for that week, including the wages attributable to the farm work.

In each case, the test is a "pay period," and this is determined by the period for which the employer ordinarily makes payments of wages. In no case, however, can a pay period be more than 31 consecutive calendar days. If it is, the rules set forth above do not apply, and taxes are paid on, and only on, the wages paid for services which are not exempt from taxes.

Copies of Regulations 106 can be obtained from the Superintendent of Documents, Washington, D. C. The price is 15 cents each.

CONGRESS SUMMARY

Association Representatives Present Testimony at Hearing on Marketing Act Amendments

Representatives of the National Canners Association in presenting testimony this week before Senator Schwellenbach of Washington, chairman of a subcommittee of the Senate Committee on Agriculture, opposed the inclusion of canning crops in the compulsory control provisions of the Marketing Agreements Act of 1937. The hearing was on a bill (S. 3426) introduced by Senator Gillette of Iowa. One section of this bill proposes the extension of the order sections of the Act to all agricultural and horticultural commodities, thereby removing the exemption of canning crops from the order sections of the law.

With two exceptions, asparagus and olives, canning crops are not subject to possible compulsory production and marketing control by the Secretary of Agriculture. The repeal of this exemption has been consistently opposed by the canning industry.

Carroll E. Lindsey, chairman of the Association's Legislative Committee, and H. T. Austern of counsel for the Association, represented the membership of the Association at the hearing. Their testimony, and the evidence they submitted in the form of charts and graphs, was similar to that presented by witnesses for the Association before the House Committee on Agriculture last June at hearings on a companion bill.

Witnesses from the Department of Agriculture, Farm Bureau Federation, National Cooperative Council, and National Cooperative Milk Producers Federation testified in favor of the repeal of the exemption applicable to canners and in favor of other provisions of the bill that deal, for the most part, with agreements and orders affecting milk.

While the Senate continued to debate the proposed extension of the Reciprocal Trade Agreements Act for another three years, and the House considered the final two regular annual departmental appropriation measures—appropriations for the District of Columbia and the military functions of the War Department—two Congressional committees took action on bills of general interest to the canning industry.

Hearings on the Patman chain store tax bill were begun on Monday by the House Ways and Means Committee. The Committee reports that over sixty persons have signified that

they wish to be heard and that it is probable the hearings will continue for a number of weeks. Secretary of Agriculture Henry Wallace wrote the Committee expressing his disapproval of the measure.

The House Committee on Labor this week approved four amendments to the National Labor Relations Act and instructed Committee Chairman Mary T. Norton of New Jersey to attempt to get House consideration of the amendments under suspension of the House rules. The amendments were contained in a bill introduced by Mrs. Norton for the Committee.

By considering a bill under suspension of the rules, the House bars its members from offering amendments to the subject under debate. Should Mrs. Norton fail to get the required two-thirds vote necessary to suspend the rules, only one other avenue for closed consideration of the bill remains. That is through the House Rules Committee, which has not been disposed to grant completely closed rules on labor legislation.

The changes in the Act approved by the House committee, if enacted, would increase the membership of the National Labor Relations Board from three to five; would direct the Board to recognize a craft union for bargaining purposes if a majority of the craft workers involved so choose; would permit employers to petition the Board for an election, when confronted with a dispute between rival unions; and would make bargaining certification effective for a full year, thus assuring employers that they will deal with the same union for that period.

Third Reorganization Plan Sent to Congress

Intradepartmental reorganization, affecting several bureaus, were proposed Tuesday by President Roosevelt. The changes, termed Reorganization Plan No. III, will become effective within sixty days unless specifically rejected by either the Senate or the House.

Main changes proposed are:

(1) Consolidations of functions of the Treasurer of the United States, the Commissioner of Accounts, and the Public Debt Service under a fiscal assistant secretary of the Treasury.

(2) Consolidation of the Division of Marketing and Marketing Agreements of the Agricultural Adjustment Administration and of the Federal Surplus Commodities Corporation in a single agency to be known as the Surplus Marketing Administration.

(3) Creation of a new bureau in the Department of Interior, to be known as the Fish and Wildlife Service, in which will be concentrated the activities of the Bureau of Fisheries and of the Bureau of Biological Survey.

(4) Abolishment of the offices of commissioner of immigration and the offices of district commissioners of immigration and naturalization, with their work remaining in charge of district directors of immigration and naturalization.

(5) Clarification of the authority of the administrator of the Civil Aeronautics Authority.

Petitions Ask Reconsideration of Cherry Standards

Three petitions have been submitted to the Secretary of Agriculture by the pitted red cherry industry, asking that the regulations promulgated with respect to canned cherries

be revoked, and that the proceedings be reopened for the purpose of receiving further testimony.

The three petitions concern, respectively, the definition and standard of identity, the standard of quality, and the standard of fill of container.

The two most important points in dispute have reference to the label requirement that the word "sour" be part of the product's name; and the requirement that the label term "in water" be used to describe a certain type of pack.

FOOD LAW OPINIONS

MARASCHINO CHERRIES.—In an opinion noted in the INFORMATION LETTER for February 17, it was stated that the Food and Drug Administration had reached the conclusion that the term "Maraschino Cherries" may be regarded as a common or usual name that may be used on the label for cherries that had been dyed red, impregnated with sugar, and packed in a sugar sirup flavored with oil of bitter almonds or a similar flavor. The Administration now emphasizes that artificial coloring, flavoring, and preservative, if present, and also the nature of the packing medium, must be declared on the label.

FRUIT JUICE IN SIRUP.—In response to an inquiry regarding the use of fruit juice in sirup for canning fruits, the Administration has stated:

"From the description in your letter we conclude that a portion of the proposed ingredient consists of the expressed and strained liquid from irregular pieces of the fruit in the cases of peaches and apricots, and from irregular pieces, peelings, and cores in the case of pears. The proposal upon which you desire comment is to take this liquid and mix it with sugar syrup, using this mixture as a packing medium. The mixing would be so manipulated in any case that the Brix of the combined packing medium would be in apparent conformity with the syrup density requirement for the usual unmixed sugar syrup optional packing medium. You cite two advantages—a saving in the cost of the packing medium and an improved flavor for the canned product. You ask whether it will be permissible to pack peaches, apricots, and pears in such a packing medium, and if so, you inquire as to the form of optional ingredients statement.

"While this Administration at the moment sees no inherent objection to the use of this liquid in combination with sugar syrup as a packing medium, nevertheless we are forced to the inescapable conclusion from a consideration of the promulgated standards of identity for these three articles that the standards in their present form preclude the use of such a mixture and that, therefore, canned apricots, peaches, or pears packed with the packing medium you refer to would be illegal. This conclusion is based upon the language used in the pertinent parts of the standards of identity for these three products, which specifically refer to the addition of 'one of the following optional liquid packing media'. This list of optional liquid packing media does not include the liquid which is expressed and strained from the by-products of canning these fruits such as you mention."

CARAMEL COLORING.—With respect to the use of caramel coloring the Administration has written to a correspondent:

"We cannot share your view that caramel or burnt sugar is not artificial coloring. Caramel is a pigment made by the artifice of partially breaking down sugar. It is our view that caramel falls squarely within the definition of artificial coloring as set forth in the regulations. * * * The Administration is disposed to regard the declaration of added

caramel color in beverages in terms of 'Burnt Sugar Color' or 'Added Caramel Color' or 'Colored with Caramel' as equally satisfactory."

Proposed Amendment to Tomato Identity Standard

The proposed amendment to the standard of identity for canned tomatoes, on which a hearing will be held May 2 in Washington, D. C., would permit the use of calcium chloride or other harmless calcium salts as an optional ingredient for the purpose of preventing breakdown of tomato flesh or tissue as the result of processing and shipment. On the basis of evidence received, the Department of Agriculture will determine whether the standard should be amended.

The hearing is called to begin at 10 a. m., in room 3106, Department of Agriculture, South Building. Affidavits will be received up to the day of the hearing and should be addressed to John McDill Fox, room 2311 South Building, Department of Agriculture. Lack of opportunity for cross-examination will be given consideration in the case of affidavits.

The details of the proposed amendment, as published in the *Federal Register* of March 30, are reproduced below:

(1) By inserting in subsection (a), immediately after "(6) Flavoring.", the following:

"There may be added, for the purpose of preventing breakdown of tomato flesh or tissue, as the result of processing and shipment, the following optional ingredient:

"(7) Calcium chloride or other harmless calcium salts not in excess of 0.15 per cent by weight of the total contents based upon calcium."

(2) By striking out, in subsection (b), the sentence, "When optional ingredient (5) or (6) is present, the label shall bear the statement or statements 'Spice Added' or 'With Added Spices', 'Flavoring Added', or 'With Added Flavoring', as the case may be.", and by inserting, in lieu thereof, the following sentence:

"When optional ingredient (5), (6), or (7) is present, the label shall bear the statement or statements, 'Spice Added' or 'With Added Spices', 'Flavoring Added' or 'With Added Flavoring', 'Calcium Chloride Added' or 'With Added Calcium Chloride', as the case may be."

COST OF PACKING PEAS

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has cut his costs to the lowest possible figure consistent with the production of high-quality products. It is frequently helpful, however, to compare one's costs with those of other pea canners, or with an average of the costs of a number of representative pea canners. With this thought in mind the Division of Statistics of the National Canners Association, under its economic research program, has assembled representative cost figures for packing peas in both 1938 and 1939. These costs were obtained in detail and are for the most part comparable.

Each canner was asked to submit 26 items of cost, each of which was carefully defined, and each canner was asked to include for each item the cost or the expense involved for only those costs that were asked for under that item. Costs were reported by 28 canners, who represent all of the sections in which peas are canned. Large canners, intermediate-sized canners, and small canners are represented.

Canners who packed peas only, as well as canners who packed a large number of items, are represented. The average is therefore fairly representative of the cost of packing peas for these two years. The cost is for one dozen No. 2 cans, an average of all grades. It was not feasible to obtain for any particular grade representative costs which would be comparable and which therefore could be averaged.

To give the reader more information regarding these costs, the Division obtained from each canner the percentage of the various grades packed. The pack of each of the canners reporting has been divided into grades, those grades added, and an average obtained of the three grades represented by these average cost figures. The Division also presents an average of the costs of a group of canners who packed mostly standard peas and an average of the costs of a group whose packs were principally fancy.

It should be pointed out that these average costs do not represent the costs of any particular canner and if they coincide with the cost of any particular canner for any particular item, it is merely accidental. They are averages of costs of representative packing companies, and they are submitted in the interest of greater efficiency in production and more economical packing operations.

The following table shows the average cost of packing peas for each of three groups of canners. Group I includes only those packing the lower grades. Group III includes those whose packs were principally fancies and extra standards. Group II includes all pea canners reporting costs included in this study; that is, it includes groups I and III and a number of others. Average costs are shown for these three groups for 1938 and 1939. Below the total cost figure is given the percentage distribution of grades and varieties of the pack. As the principal difference in the cost of packing fancies and standards is in the direct cost items, this table shows only the direct cost in detail. Costs of the other principal classifications are given as totals.

Items	Average cost per doz. No. 2 cans		
	1938	Group I	Group II
Direct cost:			
Green produce.....	\$0.2319	\$0.2840	\$0.3425
Direct labor.....	.0486	.0668	.0614
Cans.....	.2519	.2598	.2655
Boxes.....	.0186	.0265	.0203
Sugar and salt.....	.0102	.0183	.0179
Total direct cost.....	.5612	.6554	.7076
Manufacturing expense, total.....	.0768	.1413	.1544
Selling expense, total.....	.0907	.1205	.1201
Administrative expense.....	.0405	.0407	.0307
Interest paid.....		.0194	.0124
Total cost and expense.....	.7692	.9773	1.0252
Pack:	Pct.	Pct.	Pct.
Alaskan.....	86.0	31.5	8.7
Sweets.....	14.0	68.5	91.3
Total.....	100.0	100.0	100.0
Pack:			
Fancy.....	1.7	45.6	73.5
Extra Standard.....	16.9	28.7	23.5
Standard.....	81.4	25.7	3.0
All grades.....	100.0	100.0	100.0

1939			
Direct cost:			
Green produce.....	\$0.2362	\$0.2363	\$0.2864
Direct labor.....	.0467	.0579	.0481
Cans.....	.2384	.2509	.2582
Boxes.....	.0172	.0232	.0170
Sugar and salt.....	.0130	.0169	.0182
Total direct cost.....	.5505	.5832	.6279

Items	Average cost per doz. No. 2 cans		
	1939	Group I	Group II
Manufacturing expense, total.....	\$0.0630	\$0.1537	\$0.1821
Selling expense, total.....	.0903	.1140	.1283
Administrative expense.....	.0418	.0340	.0339
Interest paid.....		.0164	.0147
Total cost and expense.....	.7656	.9033	.9569
Pack:	Pct.	Pct.	Pct.
Alaskan.....	92.4	25.9	7.3
Sweets.....	7.6	74.1	92.7
Total.....	100.0	100.0	100.0
Pack:			
Fancy.....	.8	49.6	79.4
Extra Standard.....	37.3	28.3	19.7
Standard.....	61.9	22.1	.9
All grades.....	100.0	100.0	100.0

In the following table are given the detailed items of all the principal costs for group II, which, as previously stated, includes all canners covered by the study. These cost figures are arithmetical averages of the costs as reported by canners. In calculating the averages, the costs of a large packer were given the same weight as those of a small canner. It was felt that this method of averaging would more nearly show a representative average cost of packing for the industry than any other method that might have been used.

Items	1938		1939	
Direct cost:				
Green produce.....	\$0.2840	\$0.2363		
Direct labor.....	.0668	.0579		
Cans.....	.2598	.2582		
Boxes.....	.0265	.0232		
Sugar and salt.....	.0183	.0169		
Total direct cost.....	.6554	.5832		
Manufacturing expense:				
Depreciation.....	.0299	.0303		
Supervision and indirect labor.....	.0268	.0289		
Building and machinery repairs.....	.0163	.0198		
Insurance on buildings and equipment.....	.0036	.0045		
Property taxes.....	.0077	.0095		
Power plant expense.....	.0135	.0136		
Viner repairs, rental, and power.....	.0143	.0237		
Compensation insurance.....	.0028	.0029		
Social Security taxes.....	.0055	.0059		
Automobile and truck expense.....	.0105	.0082		
Other manufacturing expense.....	.0104	.0074		
Total manufacturing expense.....	.1413	.1537		
Selling expense:				
Salesmen's salaries.....	.0123	.0133		
Brokerage.....	.0252	.0273		
Discount on sales.....	.0158	.0157		
Labels and label allowances.....	.0235	.0233		
Labeling and shipping labor.....	.0164	.0144		
Swells and spoilage.....	.0028	.0027		
Insurance on canned food.....	.0046	.0040		
Other selling expense.....	.0199	.0133		
Total selling expense.....	.1305	.1140		
Administrative expense.....	.0407	.0340		
Interest paid.....	.0194	.0164		
Total cost and expense.....	.9773	.9033		

Chart of Provisions of Food-Drug Act Published

A schematic chart showing the provisions of the Federal Food, Drug, and Cosmetic Act has been published by the Department of Agriculture. It is divided into three sections: food, drugs and devices, and cosmetics.

A limited supply of copies of the chart is available for free distribution upon application to the Consumer Standards Project, Consumers Counsel Division, Agricultural Adjustment Administration, Washington, D. C.

D. C. CORPORATION INCOME TAX

Canner's Liability Depends Primarily on Method of Doing Business

The Association continues to receive inquiries concerning the new District of Columbia corporation income tax, which applies to all foreign corporations that derive income from "District of Columbia sources." As was explained in the INFORMATION LETTER of March 9, the new statute imposes a tax of 5 per cent upon net income derived from sources within the District of Columbia. Where a corporation derives income from sources both within and without the District of Columbia, the allocation and apportionment of income and deductions are permitted.

Since corporations operating on a calendar year basis are required to file returns on or before April 15, 1940 (corporations on a fiscal year basis must file on or before the fifteenth day of the fourth month following the close of the fiscal year), the application of the tax to canners who ship their products into the District of Columbia in interstate commerce has become a question of considerable importance.

The typical situation is, of course, where a canner obtains orders in the District of Columbia through salesmen or brokers, which orders are accepted at the canner's office outside the District of Columbia, and are filled by shipments by interstate common carriers from points outside the District of Columbia. In some instances the shipments may be made with a sight draft attached to the bill of lading, or there may be circumstances under which the canner retains title to the merchandise until it has been delivered in the District of Columbia.

Unfortunately, the extent to which the statute will be held applicable to canners who thus ship their products into the District of Columbia is not definitely known. The statute itself is completely ambiguous, and there have been no court decisions or formal administrative interpretations that give any answer to these questions. The application of the tax to particular canners will probably depend primarily upon the particular facts surrounding their method of doing business, but it is believed that there is a substantial possibility that the tax will be held to apply at least to some of the types of transactions under which various canners ship their products into the District.

The important and controlling circumstances seem to be, first, where the contract of sale is entered into and, second, where title passes to the buyer. The District taxing officials have informally indicated that if either of these circumstances takes place in the District of Columbia, they will probably hold that the income from the sale is taxable. Thus, no matter how a canner may procure an order in the District of Columbia, whether by mail, telephone, or personal solicitation, if the shipment is made under such circumstances that the canner retains title to the merchandise until the products are delivered in the District, there is a possibility that the tax will be held to apply.

An interpretation such as this will undoubtedly create many perplexing problems. For example, where the shipment is made with a sight draft attached to the bill of lading, so that the canner retains a "security" title, even though beneficial ownership in the merchandise may have passed to the buyer, the taxing authorities may take the position that the transaction is taxable. Whether or not they will be sus-

tained in this position, cannot be foretold. On the other hand, if the canner maintains warehouse stocks in the District, from which his deliveries are made, or if he makes the deliveries in the District of Columbia in his own trucks, the tax probably will be held applicable.

Where the canner makes his shipments from stocks maintained outside of the District, and the circumstances are such that all title and ownership in the goods clearly pass to the buyer upon delivery to the common carrier outside the District, there is still a possibility that the tax may be applicable. For in these circumstances, the District taxing officials have informally stated that they will probably hold the transaction taxable if the circumstances are such that it can be said that the contract of sale was entered into in the District of Columbia.

This raises the difficult legal question of where the contract of sale is entered into when a canner procures orders in the District of Columbia by means of personal solicitation, through his own salesmen, or through independent brokers. If the orders are subject to acceptance or rejection at the canner's home office, the canner would have a strong basis for arguing that the contract of sale was not entered into in the District. Even in this case, however, the District officials have suggested that they might hold the transaction taxable, if the salesman or broker has authority to quote a firm price, if there is no question about the buyer's credit, and if in the ordinary course of business, orders taken by the salesman or broker are uniformly fulfilled by the canner. The correctness of this position is not free from doubt.

Indicative of these possibilities that the tax will apply in some cases, are instructions that have recently been issued by the District of Columbia taxing officials concerning the information that should be included in corporation returns. For the information of canners these instructions are here set forth:

Every corporation having a place of business outside the District of Columbia shall report as Item D on Form D-50 (Total gross receipts from sales and/or services from sources within the District of Columbia as shown by books of taxpayer) all sales made in the District of Columbia and charges for services or work performed in the District of Columbia. If the figure so reported as Item D does not include all business of the corporation made under each of the circumstances stated below in Items 1 to 9, state the amount of business so excluded and under which of the following circumstances it was transacted; the figures so excluded should be reported separately for each of the nine following circumstances:

1. Where orders for delivery of goods into the District are obtained as a result of personal solicitation.
2. Where goods are delivered into the District in the delivery equipment of the seller, or by contract carrier employed by the seller.
3. Where goods are delivered into the District C.O.D.
4. Where goods are delivered from a warehouse located in the District.
5. Where goods are consigned to an agent located in the District.
6. Where the bill of lading is forwarded to a local bank with sight draft attached.
7. Where delivery is made in such manner that title to the property passes to the purchaser in the District.
8. All transactions with the U. S. Government or the Government of the District of Columbia where sales of personal property are made for delivery and use within the District of Columbia.

9. Charges for work done or services performed (construction of buildings, installations, advisory service, etc.) where such work is done or such services are performed in the District.

If the corporation claims that the income from any of the sales or other charges reported under items 1 to 9 above is not from sources within the District of Columbia, it should furnish a full explanation with such schedule in substantiation of such contention.

If the corporation has sources of income from sales made within the District but maintains its only manufacturing establishments with large inventories of merchandise outside the District, the Assessor may determine the apportionment factor on the basis of sales only. The value of personal property in such cases will not be used in computing the apportionment factor if, in the opinion of the Assessor, a more equitable apportionment will be determined by consideration of the sales item only.

It will be observed that these instructions set forth nine different types of transactions, several of which may be typical of the usual shipment into the District by a canner, and specify that if any income is derived from transactions of this character, full information concerning it should be given to the Assessor.

To summarize: These instructions and informal opinions of District officials have indicated that wherever a canner obtains orders in the District of Columbia as a result of solicitation by salesmen or by brokers, there is a possibility that tax liability may ultimately be imposed, although the exact circumstances under which the taxes will apply or their extent is by no means clear.

In view of the substantial penalties that the Act imposes (25 per cent for failure to file a return, plus possible interest of 1 per cent a month), it probably would be advisable for any canner who obtains any substantial amount of business in the District of Columbia as the result of solicitation by salesmen or by brokers to file a return. By filing such a return, the canner will protect himself against the possible imposition of the penalties and interest in the event that the tax is ultimately held applicable. In the return the canner should give full facts concerning all details of his method of doing business, his income and deductions, and can contend that he is not deriving any income from District of Columbia sources that is subject to the tax.

The canner should be careful that his return, or a statement attached to it, gives facts that show (if this is the case) that title to his merchandise passes to the buyer outside of the District, and that the contract of sale was entered into outside of the District. If the canner is required to pay a tax, the statute affords him a right to file a claim for refund, and this will enable him to recover any taxes that it may subsequently be determined should not have been paid.

Copies of returns may be obtained from the Office of the Assessor, District Building, Washington, D. C.

Dusting Equipment for Pea Weevil Control

Control of the pea weevil in the Northwest and the development of mechanized dusting equipment for the application of insecticides is well described and illustrated in two recent publications published by the University of Idaho at Moscow.

Extension Bulletin 132, entitled "Pea Weevil Control," describes the insect, its life history and habits, and the principal sources of pea weevil infestation. In Bulletin 234, entitled "Mechanized Dusting Equipment for Pea Weevil Control," a number of photographs are included, describing construction and use of equipment. Data are also included

on costs and management and land measurement for determination of acreage and dust distribution.

Copies of these publications can be obtained upon inquiry directed to the Raw Products Bureau of the Association.

APPLICATION OF MOTOR CARRIER ACT Canners Operating Trucks Solely for Own Products Exempt from Certain Regulations

In recent weeks, the Association has received a number of inquiries from its members concerning the application of the Federal Motor Carrier Act to canners who own trucks and operate them solely for the transportation of their own products. In some instances, the trucks are used to make deliveries of the canner's products to buyers who have purchased the merchandise on an f.o.b. cannery basis, and in this case the buyer is charged for the transportation. The charges for the transportation may or may not result in a profit to the canner.

In view of an announcement issued by the Interstate Commerce Commission several years ago, it seems clear that these activities on the part of canners do not subject them to the regulations imposed by the Motor Carrier Act upon common and contract carriers by motor vehicle. The Act requires common carriers and contract carriers to procure certificates or permits authorizing their operation, and to file schedules of their rates and charges with the Interstate Commerce Commission. Private carriers, however, need not comply with these regulations, and are subject only to such regulations as the Commission may promulgate concerning hours of service of employees and safety of operations. No regulations of the latter type have yet been issued.

The Commission's notice concerning operations of the type under consideration was issued on December 5, 1936, and reads as follows:

"Numerous inquiries have been received regarding the status under the Motor Carrier Act, 1935, of a mercantile or manufacturing establishment which engages in no transportation of property excepting property which is sold or purchased by such mercantile or manufacturing establishment and which is transported from or to its established place of business as an incident to the conduct of such business, but for compensation received either directly or indirectly as an allowance in connection with the purchase price or otherwise.

"There has been no formal decision of the Commission relative to its jurisdiction over such transportation. Until such a formal decision has been made, or until further notice, the Commission will not require compliance with the general provisions of the Motor Carrier Act on the part of any mercantile or manufacturing establishment engaged in transportation as above described; however, they will, until such decision has been made, be subject to any regulations for private carriers by motor vehicle which the Commission may hereafter prescribe under the authority of Section 204 of the Motor Carrier Act and which relate to qualifications and maximum hours of service of employees and safety of operation or standards of equipment."

This notice is still in effect. It will be observed that the Commission has advised that, until further notice, manufacturing establishments operating their own trucks to transport *their own products* to buyers are not to be deemed contract carriers, and consequently need comply only with such regulations as may be established relating to the hours of service and safety of operations of *private carriers*.

SUMMARY OF PACIFIC SALMON PACK DURING 1939

Total production of Pacific canned salmon during 1939 amounted to 9,759,265 cases (48 one-pound cans), of which Pacific Coast States and Alaska packed 5,991,999 cases, according to preliminary figures compiled by the Bureau of Fisheries. This total can be compared with the total 1938 pack of 11,299,597 cases (same basis), and the Alaskan and State production of 7,279,719 cases.

The total figures include production of Alaska, Pacific Coast States, British Columbia, Japanese Siberia, and Japan. Soviet

pack figures are not available, but the Russian production in 1937 was reported at 543,186 cases.

Canadian pack statistics were furnished by the Department of Fisheries at Vancouver, B. C., and figures on the Japanese production were taken from the Pacific Fisherman Yearbook, 1940.

The following table shows the 1939 salmon pack by variety and region, with figures on the basis of 48 one-pound cans to the case:

DISTRICT	Chinook or King Cases	Blueback, Red, or Sockeye Cases	Silver or Coho Cases	Humpback or Pink Cases	Chum or Keta Cases	Steelhead Trout Cases	Total Cases
Alaska:							
Southeastern	2,441	195,358	96,236	1,475,358	296,104	.....	2,035,497
Central	24,814	655,399	37,886	1,054,665	239,446	.....	2,011,910
Western	5,803	1,115,491	.....	2	94,750	.....	1,215,746
Total	32,458	1,966,248	104,122	2,530,023	630,300	.....	5,263,183
Pacific Coast States:							
Puget Sound	2,306	43,863	55,016	282,656	15,279	.....	398,910
Washington Coast .....	.....	.....	.....	.....	6,542	.....	6,542
Columbia River and Oregon Coast	203,583	5,294	69,125	.....	19,019	26,373	323,394
Total	205,979	48,857	124,141	282,656	40,840	26,373	728,840
British Columbia:							
District No. 1—							
Fraser River and Howe Sound	7,078	73,216	80,953	204,681	143,020	86	609,034
District No. 2—							
Nass River	451	18,834	1,667	19,479	1,784	15	42,230
Skeena River	5,113	96,358	48,973	127,521	15,066	55	293,086
Rivers and Smiths Inlets	623	36,937	6,302	19,256	4,903	82	68,103
Central Areas	727	21,213	46,519	115,422	76,371	428	260,680
Queen Charlotte Islands	1	1	2,363	2,123	40,807	.....	45,295
District No. 3	2,104	23,329	58,319	132,113	104,033	131	320,029
Total	16,097	209,888	245,096	620,595	386,584	707	1,539,057
Siberia:							
Japanese Production	625	280,399	17,025	826,360	20	.....	1,124,329
Japan	316	582,196	43,501	477,810	57	.....	1,103,880
Grand total	255,475	3,147,488	533,885	4,737,446	1,057,801	27,170	9,759,265

Memphis Selected for Try-Out of Cotton Plan

Memphis was designated this week as the first city in which will be tried out the cotton stamp program to move surplus cotton goods to public assistance families through normal channels of trade. The plan is similar to the program followed during the past year for distribution of surplus foods.

Garden Seed and Seed Corn Scheduled for Seasonal Exemption from Hours Provision

Exemption for the cleaning and preparing of garden seed and seed corn at country cleaning plants from the hours provision of the Fair Labor Standards Act as a "seasonal" industry was indicated today when Administrator Philip B. Fleming of the Wages and Hours Division issued a preliminary determination that a prima facie case has been made for classifying this industry as seasonal in nature. A fifteen-day period during which objectors may be heard will elapse before a final determination is made by the administrator.

As a "seasonal" industry, the cleaning and preparing of garden seed and seed corn may be carried on for 12 hours in any workday, or for 56 hours in any workweek, as the case may be, for a period or periods aggregating 14 workweeks in any calendar year before the overtime provisions requiring payment of at least time and one-half the regular rate of pay become effective.

The granting of such a seasonal exemption for the industry does not relieve it from the 30-cent-an-hour minimum pay

requirement of the Act nor is it to be confused with the statutory 14-week exemption from the maximum hour requirements of the Act that is applicable to canners of perishable or seasonable fruits and vegetables.

Indexes of Wholesale Prices and Employment

The wholesale price index for all foods was 8.1 points lower than the all-commodity index on March 30, 1940. The all-food index had dropped one-tenth of a point from March 23, 1940, and was seven-tenths of a point lower than on April 1, 1939.

The index of employment in the canning and preserving industries for February, 1940, was 90.6, as compared with 84.3 in February, 1939.

In the following tables, derived from Bureau of Labor Statistics reports, the index for wholesale prices is based on the average for the year 1926 taken as 100 per cent. The indexes for employment and payrolls are based on the average for the years 1923-25 taken as 100 per cent.

	Wholesale Prices					
	Mar. 30, 1940	Mar. 23, 1940	Mar. 16, 1940	Mar. 9, 1940	Mar. 2, 1940	Apr. 1, 1939
All commodities	77.9	77.9	78.2	78.3	78.4	76.5
All foods	69.8	69.9	70.4	69.9	70.5	70.5
	Employment			Payrolls		
	Feb. 1940	Jan. 1940	Feb. 1939	Feb. 1940	Jan. 1940	Feb. 1939
All industries	101.4	101.5	93.6	97.8	98.3	86.0
Canning and preserving	90.6	91.0	84.3	77.8	80.6	75.9

CURRENT CANNED FISH INDICATORS

Large Shipments of Canned Salmon and Sardines Move to English Ports in February

Both canned salmon and canned sardines moved to the English market during February, 1940, in larger quantities, compared not only with the previous month but also with the corresponding month a year ago, according to the Foodstuffs Division of the Bureau of Foreign and Domestic Commerce. February was the last full month before imposition of import license control in the United Kingdom.

With the February sardine pack in California only slightly larger than that of February, 1939, the spread between the current and last season's pack was further narrowed. Of the approximately 700,000 case increase through February, export markets took 400,000 cases the same month. Shipments abroad for the period August 1, 1939, to February 29, 1940, totalled 1,080,400 cases, compared with 681,500 cases for the corresponding period of 1938-39.

Exports of canned salmon during 1939 from Japan proper (not including Kamchatka, for which figures are not available) were 16 per cent less than the amount shipped the previous year. Shipments to England dropped 29 per cent.

The following table, compiled by the Foodstuffs Division, is similar in form to the table of current canned fruit and vegetable indicators reproduced in the March 30 issue of the INFORMATION LETTER:

	Current period Cases	Same period year ago Cases	Change Per cent
Salmon			
Packers' unsold stocks, Mar. 1:			
Total.....	1,400,153	2,032,591	- 27
Alaska Reds.....	1,056,359	1,083,701	- 3
Pinks.....	179,127	573,784	- 69
U. S. exports—February.....	126,300	71,300	+ 77
U. S. exports—July 1, 1939, to February 29, 1940.....	632,600	879,100	- 28
U. S. exports to England—February.....	120,000	31,000	+135
U. S. exports to England—July 1, 1939, to Feb. 29, 1940.....	533,000	695,000	- 23
Sardines			
California pack—February.....	377,700	365,472	.....
California pack—Aug. 1, 1939, to February 29, 1940.....	3,042,979	2,364,989	+ 29
U. S. exports—February.....	213,300	126,800	+ 68
U. S. exports—Aug. 1, 1939, to February 29, 1940.....	1,080,400	681,500	+ 59
U. S. exports to England—February.....	116,000	17,000	.....
U. S. exports to England—Aug. 1, 1939, to Feb. 29, 1940.....	397,500	78,400	.....
Tuna			
California pack—February.....	118,719	168,498	- 30
California pack—Jan. 1 to February 29.....	297,039	193,031	+ 54
U. S. imports—February.....	19,600	10,800	+ 81
U. S. imports—Jan. 1 to Feb. 29.....	67,100	25,300	+165
Mackerel			
California pack—February.....	112,361	74	.....
California pack—January 1 to February 29.....	301,692	134,551	+124
Crabmeat			
U. S. imports—February.....	38,100	20,200	+ 88
U. S. imports—July 1, 1939, to February 29, 1940.....	356,300	139,400	+155

Army Dietitians Told of Canned Food Research

Dietitians of Walter Reed Hospital at Washington, D. C., were told the story of the Association's scientific research on canned foods this week by Katharine Smith of the Service Kitchen. Miss Smith also showed lantern slides of canning procedure.

At a vocational class of adults in the District of Columbia night school this week, Miss Smith told of the canning industry's efforts to make canned foods perfectly wholesome, and of the Association's activities in helping consumers to use canned foods through its Home Economics Division. Members of the class included men and women engaged in restaurant work, as well as housewives.

Unsold Stocks of Canned Salmon

Unsold stocks of canned salmon on March 30, 1940, amounted to 1,369,535 actual cases, compared with 1,490,153 cases on February 29, 1940, and 1,324,362 cases on March 31, 1939, according to statistics compiled by the Association of Pacific Fisheries.

These figures are based on reports from companies canning 99 per cent of the 1939 pack and 98 per cent of the 1938 pack. The following table gives details on unsold stocks.

GRADES OR VARIETIES	Tails (1 pound) Cases	Flats (1 pound) Cases	Halves (8 dozen) Cases	Total Mar. 30, 1940 Cases	Total Mar. 31, 1939 Cases
Chinooks or Kings:					
Fancy Red.....	5,608	3,045	15,522	24,175	45,978
Standard.....	538	4,405	2,906	7,849	12,583
Pale.....	73	138	229	440	1,472
White.....	146	11	2	159	347
Puget Sound Sockeyes.....	9	5,912	21,137	27,058	67,965
Alaska Reds.....	885,143	11,391	88,154	984,688	813,809
Cohoos, Silvers and Medium Reds.....	25,503	8,626	30,926	65,055	86,277
Pinks.....	115,932	7,543	31,202	154,677	245,345
Chums.....	97,278	5	7,120	104,403	48,266
Bluebacks.....	.....	.....	550	550	1,296
Steelheads.....	.....	467	14	481	1,024
Totals.....	1,130,230	41,543	197,762	1,369,535	1,324,362

Fruit and Vegetable Market Competition

Carlot Shipments as Reported to the Agricultural Marketing Service by Common Carriers

Total carlot shipments of practically all major fresh fruits and vegetables during the present season up to March 30, are smaller this year than they were during the corresponding period of 1939.

The following table, compiled from statistics of the Agricultural Marketing Service, gives detailed comparisons of carlot shipments on certain dates of selected vegetables and fruits:

VEGETABLES	Week ending—			Season total to—	
	Mar. 30, 1939	Mar. 30, 1940	Mar. 23, 1940	Mar. 30, 1939	Mar. 30, 1940
Beans, snap and lima.....	183	49	31	4,232	1,751
Tomatoes.....	626	253	266	7,444	3,846
Green peas.....	39	22	38	1,275	1,245
Spinach.....	181	216	270	5,073	4,316
Others:					
Domestic, competing directly.....	4,179	4,510	3,735	99,576	99,799
Imports competing directly.....	24	49	53	418	639
Imports competing indirectly.....	50	48	57	2,152	2,434
FRUITS					
Citrus, domestic.....	4,762	2,908	3,034	103,937	87,844
Others, domestic.....	408	83	111	50,969	47,771

Boards Predict Increase in Freight Car Loadings

Freight car loadings in the second quarter of 1940 are expected to be about 18.1 per cent above actual loadings in the same quarter in 1939, according to estimates of the thirteen Shippers' Advisory Boards. Each Board estimates

an increase in car loadings for the second quarter of 1940, compared with the same period in the preceding year, except the Southwest Board, which predicts a small decrease.

Car loadings of "canned goods," it is estimated, will increase 5.9 per cent. This classification includes all canned food products, catsup, jams, jellies, olives, pickles, preserves, etc.

FEBRUARY SUGAR IMPORTS

Increase 74.8 Per Cent from Low Total Imported During January

February imports of sugar into the United States, including quantities released from bonded warehouses, were 74.8 per cent larger than during January, but were somewhat less than the total imported during December, 1939. Imports of sugar during February amounted to 844,179,361 pounds, compared with 482,812,612 pounds imported during January, and 887,009,569 pounds imported during December.

In the table below, compiled from a report of the Department of Commerce, are shown imports into the United States of raw and refined sugar, both dutiable and free, during February from foreign countries and from non-contiguous territories.

Origin	Raw		Refined	
	Dutiable	Free	Dutiable	Free
Foreign countries:	Pounds	Pounds	Pounds	Pounds
Cuba.....	272,393,918		49,882,362	13,300
Mexico.....	26,231			
Dominican Republic...	16,513,600			
Peru.....	19,822,762			
Philippine Islands.....	196,000	159,083,110	4,875,200	
China.....	19,670			
Hong Kong.....	3,300			
United Kingdom.....				800
Netherlands Indies.....		8,108		
Guatemala.....		1,008		
Total.....	308,975,481	159,092,226	54,757,562	14,100
U. S. Territories:				
Hawaii.....		142,378,990		
Puerto Rico.....		120,991,102		57,909,900
Total receipts....	308,975,481	422,462,318	54,757,562	57,984,000

The following table shows the imports of sugar by ports of entry. These figures include imports for direct consumption and withdrawals from bonded warehouses within the United States.

Port of Entry	Raw		Refined	
	Dutiable	Free	Dutiable	Free
	Pounds	Pounds	Pounds	Pounds
Massachusetts.....	41,066,507	20,159,820		
New York.....	82,207,847	68,633,123	15,161,600	9,100
Philadelphia.....	39,475,914	35,840,000	4,700,000	
Maryland.....	50,051,130	12,163,351	1,014,062	1,100
Virginia.....	98,457		6,500,000	
North Carolina.....	114,867			
South Carolina.....			2,000,000	
Florida.....			16,766,700	
Mobile.....			3,000,000	3,000
New Orleans.....	73,888,226	22,287,824	740,000	
Galveston.....	15,109,844			
El Paso.....	8,644			
Arizona.....	9,367			
San Francisco.....	6,739,188	8,108		
Los Angeles.....	67,220		3,750,000	
Washington.....	140,000		745,200	
Oregon.....			380,000	
Hawaii.....	14,570			
Total.....	308,975,481	159,092,226	54,757,562	14,100

Rectangle Must Enclose Alternate Label Statement on Substandard Food

All forms of statements of substandard quality on canned foods must be enclosed in lines at least 6 points wide forming a rectangle, the Food and Drug Administration stated this week in a new opinion with respect to optional forms of substandard legends permitted in standards of quality for various canned foods.

The March 30 issue of the INFORMATION LETTER reported the earlier opinion of the Administration that the alternate forms of substandard legend need not be enclosed in a rectangle. The new opinion makes clear that the alternate statements permitted by various standards must be treated typographically on the label in the same manner prescribed for the general form. In all cases the sizes of type prescribed in the general regulation are to be used.

The general regulation referring to the substandard legend reads:

(a) The term "general statement of substandard quality" means the statement "BELOW STANDARD IN QUALITY GOOD FOOD—NOT HIGH GRADE" printed in two lines of Cheltenham bold condensed caps. The words "BELOW STANDARD IN QUALITY" constitute the first line, and the second immediately follows. If the quantity of the contents of the container is less than 1 pound, the type of the first line is 12-point, and of the second, 8-point. If such quantity is 1 pound or more, the type of the first line is 14-point, and of the second, 10-point. Such statement is enclosed within lines, not less than 6 points in width, forming a rectangle. Such statement, with enclosing lines, is on a strongly contrasting, uniform background, and is so placed as to be easily seen when the name of the food or any pictorial representation thereof is viewed, wherever such name or representation appears so conspicuously as to be easily seen under customary conditions of purchase.

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